
OLR Bill Analysis

sSB 970 (File 533, as amended by Senate "A")*

AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND RESPONSE IN HEALTH CARE SETTINGS.

SUMMARY:

This bill (1) requires certain health care employers to develop and implement plans concerning workplace violence prevention and response, (2) requires health care employers to report incidents of workplace violence to local law enforcement, and (3) establishes criminal penalties for assault of a health care employee.

The bill requires the labor commissioner to adopt regulations to implement its provisions.

*Senate Amendment "A" expands the definition of "health care employee" in the original bill (File 533) and specifies that disability means a physical or mental disability, or mental retardation.

EFFECTIVE DATE: October 1, 2011, except for the provisions on establishing workplace safety committees, risk assessment, violence prevention plans and patient care assignment, and regulations, which are effective July 1, 2011.

WORKPLACE SAFETY COMMITTEE

By October 1, 2011, the bill requires each health care employer to convene a workplace safety committee to address issues concerning the health and safety of health care employees. A "health care employer" means any institution, as defined in law, with 50 or more full- or part-time employees. It includes a facility caring for or treating mentally ill persons or those with substance abuse issues, a licensed residential care facility for persons with intellectual disability, and a community health center. "Institution", with the 50 employee minimum, includes hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health

care agencies; homemaker-home health aide agencies; assisted living services agencies; outpatient surgical facilities; infirmaries operated by educational institutions; and facilities providing services for the prevention, diagnosis, treatment, or care of human health conditions, including state agency facilities.

A "health care employee" is a person directly or indirectly employed by, or volunteering for, a health care employer who (1) is involved in direct patient care or (2) has direct contact with the patient or the patient's family when (a) collecting or processing information needed for patient forms and record documentation or (b) escorting or directing the patient or patient's family on the health care employer's premises.

The workplace safety committee must include representatives from the administration; physician, nursing and other direct patient care staff; security personnel; and any other staff determined appropriate by the employer. At least 50% of the membership must be nonmanagement employees. The committee selects a chairperson from its membership. The committee must meet at least quarterly and make meeting minutes and other records of proceedings available to all employees.

RISK ASSESSMENT; WORKPLACE VIOLENCE PREVENTION AND RESPONSE PLAN

By October 1, 2011 and annually afterwards, each health care employer must prepare an assessment of the factors that put any health care employee at risk for workplace violence. Based on these findings, the employer, by January 1, 2012 and annually afterwards, must develop and implement a workplace violence prevention and response plan. This must be done in collaboration with the workplace safety committee.

Under the bill, a hospital may use an existing committee it has established to assist with the plan if, as required, at least 50% of the committee membership are nonmanagement employees. The employer, when developing the plan, can consider any guidance on

workplace violence provided by any government agency, including the federal Occupational Safety and Health Administration, the federal Centers for Medicare and Medicaid Services, the state Public Health (DPH) and Labor departments, and any hospital accrediting organizations.

A health care employer can meet the bill's requirements for a workplace violence prevention and response plan by using existing policies, plans, or procedures if, after performing the risk assessment, the employer, in consultation with the safety committee, determines that they are sufficient.

ADJUSTING PATIENT ASSIGNMENTS

To the extent practicable, a health care employer must adjust patient care assignments so that an employee making the request does not have to treat a patient who the employer knows has intentionally physically abused or threatened the employee. The employer must give due consideration to its obligation to meet the needs of all patients. The bill specifies that patient behavior that is a direct manifestation of the patient's condition or disability, including physical abuse or threatening behavior, is not considered intentional physical abuse or threatening an employee.

An employee who has been physically abused or threatened by a patient may request that a second employee be present when treating the patient in situations where the employer determines that patient assignment adjustment is not practicable.

RECORDS

The bill requires health care employers to keep records detailing workplace violence incidents, including the specific area or department where the incident happened. Upon DPH's request, an employer must report the number of incidents occurring on the employer's premises and the specific areas or departments where they occurred.

REPORTING TO LOCAL LAW ENFORCEMENT

A health care employer must report to its local law enforcement agency any act which may be an assault or related offense under the Penal Code against an employee acting in the performance of his or her duties. The report must be made within 24 hours of the act and the employer must provide the names and addresses of those involved to the local law enforcement agency. An employer does not have to report any act which may be an assault or related offense if it was committed by a person with a disability whose action is a clear and direct manifestation of the disability. Disability means mental retardation, or a mental or physical disability.

ASSAULT OF HEALTH CARE PERSONNEL

The bill makes assault of a health care employee a class C felony, which is punishable by up to a \$10,000 fine, up to 10 years in prison, or both. It also specifies that it is a defense that the defendant has a mental or physical disability, or mental retardation.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 28 Nay 0 (03/30/2011)

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (05/03/2011)